

Effective Use Tax Rate Agreements

Effective Use Tax Rate Agreements (EUTRA), also known as Sales and Use Tax Compliance Agreements are formal individualized agreements between the Division of Taxation and the Taxpayer. EUTRAs allow the use of an “effective tax rate” to calculate sales and use taxes owed. EUTRAs generally have a term of three years or less. Conditions under which the agreement may require modification or termination are agreed upon by both parties. Upon request to enter the program, the Division will determine if the Taxpayer is qualified to participate and then conduct an audit to establish the “effective tax rate.” A Taxpayer is eligible if they:

- ❖ Are required to file and remit any New Jersey sales and use tax returns and payments;
- ❖ Demonstrate a willingness and ability to understand and comply with tax laws;
- ❖ Maintain an acceptable system of internal controls and business records; and
- ❖ Has maintained a good filing record for all taxes and is currently in good standing.

If the taxpayer is qualified for the program, the taxpayer will be able to apply the agreed upon “effective tax rate” to applicable purchases made during each filing period. The "effective tax rate" is determined by calculating the ratio of the base period taxable purchases to the base period total purchases. Some of the benefits offered to both the Division and Taxpayer include:

- ❖ Eliminates the need to pay the sales tax at the time of purchase or compute and remit the use tax on a transaction-by-transaction basis.
- ❖ Predictability and consistency of approach in tax reporting;
- ❖ Decisions regarding tax compliance is made by in-house and/or outside tax experts as opposed to non-tax personnel;
- ❖ Increased accuracy in sales and use tax budgeting and more certainty and consistency of sales and use tax expenses;
- ❖ Development of cooperative relationship with Division of Taxation;
- ❖ Reduced audit costs;
- ❖ Increased confidence in reported taxes;
- ❖ Redirection of staff to other audit candidates; and
- ❖ Timely receipt of sales and use taxes.

The Division will not enter into agreements with taxpayers that:

- ❖ Have failed to correct improper reporting methods;
- ❖ Filed for bankruptcy or are controlled by a company that has filed for bankruptcy;
- ❖ Maintain inadequate books and records and have poor internal controls; or
- ❖ Are involved in or have been involved in an ongoing criminal investigation.

Upon approval of the agreement the Taxpayer will receive a Direct Pay (Audit) Certificate (ST-6X). The ST-6X differs from the Direct Pay Permit (ST-6) in that the ST6 only allows holders not to pay the sales tax at the point of purchase when it is not known if the use of the item will be taxable or non-taxable. Purchases that will be excluded by the agreement include but are not limited to:

- ❖ Resale and inventory purchases;
- ❖ Utility and Telecommunications services;
- ❖ Meals and lodging;
- ❖ Motor vehicles, vessels, and aircraft;
- ❖ Items which the Division and the Taxpayer do not agree.

Large volume purchases, made for a business's own use on an ongoing basis and Capital assets may be included in a EUTRA. As a part of this agreement the Division agrees to waive the audit process and the taxpayer agrees to waive all rights to refund claims. However, the Taxpayer can file a refund claim for overpayments or amounts erroneously paid to vendors for items outside the agreement. The agreement can be terminated by either party with a 90 day written notice. The Division may terminate the agreement and conduct an audit if the taxpayer fails to fulfill the terms of the agreement and the failure is materially adverse to the Division. Legislative changes to the Sales and Use Tax statutes may require modification of an agreement. Listed below are additional examples of conditions necessitating modification:

- ❖ Merger or acquisition;
- ❖ Significant start up or closing costs of facilities;
- ❖ Significant changes involving business activities;
- ❖ Adoption of cost containment programs; or
- ❖ Significant financial or accounting changes.

While there is no “true-up conducted at the end of the agreement, the Division will perform at least one interim review and a final review of procedures and sample transactions to determine if the taxpayer is in compliance with the agreement. The final verification can be done by the Taxpayer separately or in conjunction with the Division.

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